

June 2005

Update: Adoption Proceedings Benchbook

CHAPTER 6

Formal Placement and Action on the Adoption Petition

6.5 Name Change and New Birth Certificate

D. Delayed Registration of Foreign Birth

Effective May 19, 2005, 2005 PA 22 amended MCL 333.2830 to allow the court to enter a new name for a child on the delayed registration of birth. Replace the quote of MCL 333.2830 on page 204 with the following text:

“(1) If a child whose birth occurred outside the United States, a territory of the United States, or Canada is adopted by a resident of this state under the laws of this state or under the laws of a foreign country, the probate court, on motion of the adopting parent, may file a delayed registration of birth on a form provided by the department. The delayed registration shall contain the date and place of birth and other facts specified by the department.

“(2) If the date and place of birth of a child described in subsection (1) cannot be documented from foreign records or a medical assessment of the development of the child indicates that the date of birth as stated in the immigration records is not correct, the court shall determine the facts and establish a date and place of birth and may file a delayed registration of birth as provided in subsection (1).

“(3) Upon the petition of a child adopted in this state whose birth occurred outside the United States, a territory of the United States, or Canada, or a petition of the child’s adoptive parents, the court that issued an order of adoption for that child before the effective date of this section* may issue a delayed registration of birth for the adopted child as provided in subsection (1).

*MCL 333.2830 became effective on September 30, 1978. 1978 PA 368.

“(4) A probate court may, at the request of the adopting parent when filing a delayed registration of birth under subsection (1), enter a new name for the child on the delayed registration of birth. After the filing of a delayed registration of birth that includes a change of name, the new name shall be the legal name of the adopted child.”

CHAPTER 11

Adoption Proceedings Involving an Indian Child

11.3 Proceedings to Which the Indian Child Welfare Act Applies

Before the “**Note**” near the bottom of page 293, insert the following text:

“Indian Tribe” Defined. An “Indian tribe” means “any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary [of the Interior] because of their status as Indians[.]” 25 USC 1903(8). The court determines whether a tribe is an “Indian tribe.” *In re NEGP*, 245 Mich App 126, 133-34 (2001).

In *In re Fried*, ___ Mich App ___, ___ (2005), the respondent claimed that the trial court erred in failing to apply ICWA to the proceedings because the child was eligible for membership in the “Lost Cherokee Nation.” The Court of Appeals held that “because the tribe to which respondent belongs is not a tribe recognized as eligible for services provided to Indians by the Secretary of the Interior, it is not an ‘Indian tribe’ within the meaning of the ICWA. 25 USC 1903(8), (11).” *Fried, supra*.